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IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CWP-1518-2024  
Date of decision : 24.01.2024

Balbir Singh .....Petitioner

versus

State of Haryana and others ..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ  
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Present :- Mr. Rajnikant Upadhyay, Advocate  
for the petitioner.

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RAJESH BHARDWAJ, J.

Prayer in the present petition is for quashing the impugned order dated 08.12.2022 (Annexure P-17) passed by respondent No.2 whereby on the basis of impugned report (Annexure P-15) submitted by respondent No.3 contradicting to the report bearing No.2854 dated 17.09.2020 (Annexure P-5) submitted by BDPO where it was found that illegal mining was conducted on the land of Gram Panchayat, Machhrola, the complaint has been closed without taking consideration the contents in the complaint, in an illegal and arbitrary manner. Further prayer has been made directing respondent No.2 to conduct a fair inquiry as averred by the petitioner in his complaint after inspecting the actual site i.e. Musteel No.69 (69K-10M).

It has been contended by counsel for the petitioner that petitioner is a resident of Village Machhrola, Tehsil and District Sonipat

and had filed an application under RTI Act for seeking information regarding illegal mining conducted in the Village. The information was provided by the Department vide letter dated 05.02.2020. He has submitted that it was disclosed in the information that M/s Jalcova Buildcon Private Limited Company i.e. respondent No.5 has done illegal mining on the land of the Gram Panchayat Machhrola in the length of 700 feet, width 100 and approximately depth 10 feet. Thereafter, the petitioner filed a complaint to the Deputy Commissioner, Sonipat on the basis of the information received under RTI by praying for conducting an inquiry against the respondents. In pursuance to the same, complaint was marked to the BDPO for conducting the inquiry. He has submitted that the BDPO submitted his report dated 17.09.2020 to the Deputy Commissioner wherein it was found that respondent No.5 has done illegal mining in the land of the Panchayat. Subsequent to that, on 19.10.2020 show cause notice was issued by respondent No.2 to respondent No.4 and the reply was filed by respondent No.4 to the same. Thereafter, the Deputy Commissioner suspended respondent No.4 vide order dated 12.11.2020. In the appeal filed by respondent No.4, the same was dismissed by Principal Secretary vide his order dated 10.12.2020. He submits that respondent No.4 challenged the same in this High Court and operation of the impugned order was stayed. As the impugned order was stayed, the regular inquiry against respondent No.4 was stopped. He has submitted that the Chief Executive Officer, Zila Parishad, Sonipat submitted his report dated 23.11.2022 to the Deputy Commissioner, Sonipat wherein it was reported that the Sarpanch, respondent No.4 has taken the possession of the land on 02.01.2020. However, the illegal mining has already taken

place. He submits that thereafter, petitioner filed the application dated 02.12.2022 to the Deputy Commissioner, Sonipat for raising his grievances that the facts have not been verified by the Inquiry Officer. However, ignoring the contentions raised by counsel for the petitioner, the impugned order dated 08.12.2022 has been passed by the Commissioner exonerating respondent No.4 which is totally unsustainable in the eyes of law. It has been submitted that in the inquiry conducted by the BDPO, illegal mining carried out was established however, in the regular inquiry conducted by the Chief Executive Officer, the same not being based on the correct facts, respondent No.4 has been illegally exonerated. Thus, the impugned order dated 08.12.2022 passed by the Deputy Commissioner being unsustainable in the eyes of law deserves to be *set aside*.

Heard. After hearing counsel for the petitioner and perusing the record, it is apparent that respondent No.4 was elected as Sarpanch. Petitioner being resident of the Village filed various complaints regarding the illegal mining conducted in the Village on the Panchayat land. The inquiry was conducted by the BDPO and the illegal mining was found to have been conducted. Thereafter, respondent No.4 was suspended. However, respondent No.4 has filed the reply to the show cause notice and regular inquiry was also entrusted by the Deputy Commissioner to the Chief Executive Officer who submitted his report dated 23.11.2022. Concluding paragraphs of the inquiry conducted by the Chief Executive Officer read as under:-

*1. In connection with the complaint, mining officer presented the report in which the allegation of illegal*

*mining in Village Machrola, has been found to be correct and as per report dated 03.11.2019 provided by Director Mining and Department of Earth Science, Haryana, Chandigarh, the measurement has been described fully but as per inspection report Khasra No. and Killa No. has not been shown.*

*2. As per possession report, Sarpanch has taken the possession on dated 02.01.2020 whereas as per RTI letter inspection report dated 03.11.2019 presented by mining department it has been mentioned that illegal mining on the land Gram Panchayat has been taken place before the possession of land taken over by the Gram Panchayat hence, it is proved that Sarpanch has no involvement in this.*

On the basis of same, the Deputy Commissioner proceeded on the application filed by the petitioner. After perusing the record and the inquiry report submitted, it was concluded that respondent No.4 was found to be not involved in the illegal mining. It was found during the inquiry that respondent No.4 Sarpanch has taken the possession of the land on 02.01.2020. This land was earlier under litigation as the eviction proceedings were pending against the same. However, on inspection mining has been found to have been conducted prior to 02.01.2020 when the land was not in the possession of the Gram Panchayat. The dispute is not regarding whether the mining has taken place or not. Though the mining done has been found but the involvement of respondent No.4 in the same has not been established during the inquiry as the possession of this land was not with the Gram Panchayat prior to 02.01.2020 when the illegal mining had taken place before taking the possession of this land.

Thus, this Court does not find any infirmity in the impugned order passed as the allegations made by the petitioner are not established against respondent No.4 during the inquiry conducted. Resultantly, the present petition, being devoid of any merits, is hereby dismissed.

24.01.2024  
*m. sharma*

( RAJESH BHARDWAJ )  
JUDGE

|                           |   |        |
|---------------------------|---|--------|
| Whether speaking/reasoned | : | Yes/No |
| Whether reportable        | : | Yes/No |